

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

DECISION AND ORDER

v.

HASHIM J. MCCULLOUGH,

Defendant.

By criminal complaint dated March 15, 2019, Hashim J. McCullough (“Defendant”) is alleged to have violated 18 U.S.C. §§ 2251(a), 2422(b), and 1470. (Dkt. 1). The instant matter was originally assigned to United States Magistrate Judge Jonathan W. Feldman, and was reassigned to United States Magistrate Judge Mark W. Pedersen on November 14, 2019. (Dkt. 7).

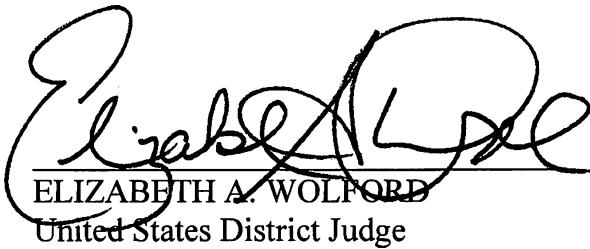
On March 21, 2019, counsel for Defendant requested a hearing to determine Defendant’s mental competency pursuant to 18 U.S.C. § 4241(b). (Dkt. 4). Judge Feldman issued an Order finding reasonable cause to believe that Defendant “may presently be suffering from a mental disease or defect,” and ordering, pursuant to 18 U.S.C. § 4241(b), that Defendant undergo a psychiatric examination. (Dkt. 5).

A psychiatric report opining that Defendant is currently competent to stand trial was subsequently provided to the Court. (Dkt. 6). On February 21, 2020, Judge Pedersen held a competency hearing. (Dkt. 16). That same day, Judge Pedersen issued a Report and Recommendation (the “R&R”) recommending that Defendant be found competent to stand

trial. (Dkt. 15). No objections to the R&R were filed, and the time for filing any such objections has passed.

“The district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record.” *United States v. Preston*, 635 F. Supp. 2d 267, 269 (W.D.N.Y. 2009). Having reviewed the record, the Court finds no error, clear or otherwise, in the R&R. Accordingly, pursuant to 28 U.S.C. § 636(b), Magistrate Judge Pedersen’s Report and Recommendation (Dkt. 15) is adopted in its entirety, and the Court hereby finds by a preponderance of the evidence that Defendant is not presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, and that he is competent to stand trial.

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: March 11, 2020
Rochester, New York